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प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation.

## LOK SABHA

The following Bills were introduced in the Lok Sabha on 20th October, 2008:—

BILL No. 45 OF 2008

*A Bill further to amend the Railways Act, 1989.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Railways (Second Amendment) Act, 2008.

Short title.

2. In the Railways Act, 1989, after section 198, the following section shall be inserted, namely:—

Insertion of new section 198A.

“198A. The power to make rules under section 198, for the purposes of sub-section (7) of section 33, shall include the power to make such rules with retrospective effect from a date not earlier than the date of the commencement of this Act, but no such retrospective effect shall be given to any such rule so as to prejudicially affect the interest of any person to whom such rule may be applicable.”.

Power to make certain rules with retrospective effect.

## STATEMENT OF OBJECTS AND REASONS

Sub-section (7) of section 33 of the Railways Act, 1989 provides that the Chairman and other Members of the Tribunal (Railway Rates Tribunal) shall hold office on such terms and conditions as may be prescribed. Further, section 198 of the Act provides that without any prejudice to any power to make rules contained elsewhere in this Act, the Central Government may make rules generally to carry out the purposes of the Act. Accordingly the Central Government notified the Railway Rates Tribunal (Salaries and Allowances and Conditions of Service of Chairman and Members) Rules, 1995 which were based on the 4th Central Pay Commission scales of pay and allowances. While examining the question of revising the salary, pension and allowances payable to the Chairman and other Members of the Railway Rates Tribunal with effect from 1-1-1996 on the basis of the recommendations of the Fifth Central Pay Commission and to extend the pensionary benefit to those who demitted the office of Chairman and Members in Railway Rates Tribunal prior to 30-1-1999, the date from which pensionary benefits were made available to the Chairman and Members, by suitably amending the relevant rules, it has been observed that there is no enabling provision in the said Act to give retrospective effect to the rules as provided in the Administrative Tribunals Act, 1985 and the Railway Claims Tribunal Act, 1987. In order to overcome this difficulty, it is proposed to amend the Railways Act, 1989 to provide for an enabling provision to make such rules with retrospective effect not earlier than the date of commencement of the said Act.

2. The Bill seeks to achieve the above objects.

NEW DELHI;

LALU PRASAD.

*The 24th January, 2008.*

## FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to insert a new section 198A in the Railways Act, 1989, to empower the Central Government to make rules for the purpose of sub-section (7) of section 33 of the said Act with retrospective effect from a date not earlier than the date of commencement of the said Act. The matter with respect of which such rules may be made relate to salaries, pension and allowances payable to the Chairman and Members of Railway Rates Tribunal.

2. As the said Bill seeks to provide for an enabling provision to make rules, the financial implications would be known only after the Railway Rates Tribunal (Salary and Allowances and Conditions of Service of Chairman and Members) Rules, 1995 are amended. Hence, it may not be possible to estimate the exact expenditure at this stage. The expenditure, if any, will be met out of the budgetary grant of the Ministry of Railways.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to insert a new section 198A in the Railways Act, 1989, to empower the Central Government to make rules for the purpose of sub-section (7) of section 33 of the said Act with retrospective effect from a date not earlier than the date of commencement of the said Act. The new section 198A specifically provides that no such retrospective effect shall be given to any such rule so as to prejudicially affect the interest of any person to whom such rule may be applicable. The rules made under section 198A shall also be laid before each House of Parliament.

2. As the matters with respect to which such rules may be made to give retrospective effect relate to salaries, pension and allowances payable to the Chairman and members of Railway Rates Tribunal, it is not practicable to provide them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

## BILL NO. 55 OF 2008

*A Bill further to amend the Workmen's Compensation Act, 1923.*

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

Short title and  
commence-  
ment.

1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 2008.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment  
of long title.

2. In the long title to the Workmen's Compensation Act, 1923 (hereinafter referred to as the principal Act), for the word "workmen" the word "employee" shall be substituted. 8 of 1923.

Amendment  
of preamble.

3. In the principal Act, in the preamble, for the word "workmen", the word "employee" shall be substituted.

Amendment  
of section 1.

4. In section 1 of the principal Act, in sub-section (1), for the word "Workmen's", the word "Employees'" shall be substituted.

Substitution of  
references to  
certain  
expressions by  
certain other  
expressions.

5. Throughout the principal Act, for the words "workman" and "workmen" wherever they occur, the words "employee" and "employees" shall respectively be substituted, and such other consequential amendments as the rules of grammar may require shall also be made.

Amendment  
of section 2.

6. In section 2 of the principal Act, in sub-section (1),—

(i) after clause (d), the following clause shall be inserted, namely:—

'(dd) "employee" means any person who is—

(i) a railway servant as defined in clause (34) of section 2 of the Railways Act, 1989, not permanently employed in any administrative, district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II, or 24 of 1989.

(ii) (a) a master, seaman or other member of the crew of a ship,

(b) a captain or other member of the crew of an aircraft,

(c) recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) recruited for work abroad by a company,

and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India, or

(iii) employed in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to an employee who has been injured shall, where the employee is dead, include a reference to his dependants or any of them.';

(ii) clause (n) shall be omitted.

7. In section 4 of the principal Act,—

Amendment  
of section 4.

(i) in sub-section (1), after clause (b), *Explanation II* shall be omitted;

(ii) sub-section (1A) shall be re-numbered as sub-section (1B) thereof, and before sub-section (1B) as so re-numbered, the following sub-section shall be inserted, namely:—

“(1A) For the purposes of sub-section (1), the Central Government may, by notification in the Official Gazette, specify such monthly wage in relation to an employee as it may consider necessary.”;

(iii) in sub-section (4), for the words “two thousand and five hundred rupees”, the words “not less than three thousand rupees or such sum, as the Central Government may, by notification in the Official Gazette, specify,” shall be substituted.

8. In section 20 of the principal Act, in sub-section (1), after the words “appoint any person”, the words “who is or has been a member of a State Judicial Service for a period of not less than five years or has been for not less than five years an advocate or a pleader” shall be inserted.

Amendment  
of section 20.

9. In the principal Act, in Schedule II,—

Amendment  
of Schedule  
II.

(i) for the word, number, brackets and letter “section 2 (1) (n)”, wherever they occur the word, number, brackets and letters “section 2(1) (dd)” shall be substituted;

(ii) in item (i) for the words “employed, otherwise than in a clerical capacity or on a railway”, the words “employed in railways” shall be substituted;

(iii) in item (ii), the words “otherwise than in a clerical capacity” shall be omitted;

(iv) in item (iii), the words “wherein or within the precincts whereof twenty or more persons are so employed” shall be omitted;

(v) in item (v), the words “other than clerical work” shall be omitted;

(vi) in item (vi),—

(a) clause (b) shall be omitted;

(b) in clause (c), the words, brackets and letter “or sub-clause (b)” shall be omitted;

(vii) in item (x), the words “otherwise than in a clerical capacity” shall be omitted;

(viii) in item (xiv), the words “otherwise than in a clerical capacity” shall be omitted;

(ix) in item (xvi), the words “in which on any one day of the preceding twelve months more than twenty-five persons have been employed” shall be omitted;

(x) for item (xviii) the following item shall be substituted, namely:—

“(xviii) employed on any estate which is maintained for the purpose of growing cardamom, cinchona, coffee, rubber or tea; or”;

(xi) in item (xix), the words “otherwise than in a clerical capacity” shall be omitted;

(xii) in item (xxvi),—

(a) in clause (a), the words “and in which on any one day of the preceding twelve months ten or more persons have been so employed” shall be omitted;

(b) in clause (b), the words “in which on any one day of the preceding twelve months fifty or more persons have been so employed” shall be omitted;

(xiii) in item (xxx), the words “otherwise than in a clerical capacity” shall be omitted;

(xiv) in items (xi) and (xii), the words “in which on any one day of the preceding twelve months more than twenty-five persons have been employed” occurring at both items shall be omitted;

(xv) the *Explanation* occurring at the end shall be omitted.

#### STATEMENT OF OBJECTS AND REASONS

The Workmen's Compensation Act, 1923 provides for payment of compensation to the workmen and their dependants in the case of injury by industrial accidents including certain occupational diseases arising out of and in the course of employment resulting in death or disablement. The Act applies to certain railway servants and persons employed in hazardous employments such as factories, mines, plantations, mechanically propelled vehicles, construction work, etc., specified in Schedule II of the Act. However, the Act is not applicable to the employees who are covered under the Employees' State Insurance Act, 1948.

2. The Second National Commission on Labour set-up in the year 2002 has made recommendations relating to amendment of the Workmen's Compensation Act, 1923. The recommendations have been examined in consultation with the concerned Ministries/ Departments/State Governments/Union Territory Administrations.

3. The salient features of the Bill are as follows:—

(1) It provides for substitution of the word ‘workman’ with the word ‘employee’ so that the Act is applicable to all classes of employees and to make the expression gender-neutral.

(2) To re-name the Workmen's Compensation Act, 1923 as the Employees' Compensation Act, 1923.

(3) To omit restrictive clauses in Schedule II of the Act, so as to make it more workers friendly.

(4) Keeping in view the changing trend in the wage level of employees, it is proposed to have an enabling provision to revise the wage ceiling from time to time by the Central Government.

(5) To enhance the funeral expenses of the deceased workman from Rs. 2500/- to Rs. 3000/- and also to empower the Central Government to enhance such expenses from time to time.

(6) Provision is being made so that persons who have a minimum qualification of not less than five years as a member of a State Judicial Service or not less than five years of experience as an advocate or a pleader shall be eligible to become the Commissioner.

4. The Bill seeks to achieve the above objects.

NEW DELHI;

The 19th September, 2008.

OSCAR FERNANDES.

34934.49.

## FINANCIAL MEMORANDUM

Sub-clause (ii) of clause 7 of the Bill empowers the Central Government to revise the wage ceiling from time to time for calculation of maximum amount of compensation where death or permanent total disablement or permanent partial disablement results from the injury. Sub-clause (iii) of the Bill, provides for the enhancement of the funeral expenses of the deceased workman from an amount of Rs. 2500 to Rs. 3000, and also empowers the Central Government to enhance such sum as the funeral expenses from time to time.

2. The above-mentioned proposals in their application to the workmen employed by the Central Government will involve increased expenditure from the Consolidated Fund of India by way of payment of compensation. However, as compensation becomes payable only in the event of employment injury resulting in disablement or death, it is not possible to estimate in advance the amount of additional expenditure involved.

3. The Bill does not involve any other expenditure whether recurring or non-recurring nature.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (ii) of clause 7 of the Bill seeks to specify such monthly wage in relation to an employee as the Central Government may, consider necessary for calculation of maximum amount of compensation. Similarly, sub-clause (iii) of the Bill seeks to increase the funeral expenses from Rs. 2500 to Rs. 3000 or such sum, as the Central Government may specify, by notification in the Official Gazette.

2. The matters in respect of which the Central Government is empowered by notification to specify certain amounts are matters of administrative details or of procedure and it is not possible to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

P. D. T. ACHARY,  
*Secretary-General.*